

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

JIMMIE L. DARRISAW,

Petitioner,

v.

No. 2:04-cv-007

HON. R. ALLAN EDGAR

JERRI-ANN SHERRY,

Respondent.

MEMORANDUM AND ORDER

State prisoner Jimmie L. Darrisaw filed a *pro se* petition for writ of habeas corpus under 28 U.S.C. § 2255. Darrisaw challenges his judgment of conviction in the state courts of Michigan for kidnapping, extortion, carjacking, and possession of a firearm during the commission of a felony. The Michigan Court of Appeals affirmed the judgment of conviction on direct appeal. *People of State of Michigan v. Barclay*, 2003 WL 327713 (Mich.Ct.App. Feb. 11, 2003), *leave to appeal denied*, *People v. Darrisaw*, 469 Mich. 877, 673 N.W.2d 103 (Mich. Sup. Ct. Aug. 29, 2003) (Table No. 123618).

Magistrate Judge Timothy P. Greeley has submitted a report and recommendation pursuant to 28 U.S.C. § 636(b)(1). [Doc. No. 50]. The Magistrate Judge recommends that the habeas petition be denied and that a certificate of appealability be

denied under 28 U.S.C. § 2253(c) because Darrisaw has not made a substantial showing of a denial of a constitutional right.

Darrisaw objects to the report and recommendation. After reviewing the record *de novo*, the Court concludes that the objections [Doc. No. 51] are without merit. The Court **ACCEPTS and ADOPTS** the Magistrate Judge's report and recommendation pursuant to 28 U.S.C. § 636(b)(1) and Rule 8(b) of the Rules Governing Section 2254 Cases in the United States District Courts. The report and recommendation, taken together with the opinion rendered by the Michigan Court of Appeals in *Barclay*, 2003 WL 327713, conclusively establish that Darrisaw is not entitled to any habeas relief under 28 U.S.C. § 2254, and that Darrisaw's arguments and objections are frivolous.

Accordingly, the petition by Darrisaw for writ of habeas corpus will be **DENIED** and **DISMISSED WITH PREJUDICE**. For the reasons expressed by the Magistrate Judge in the report and recommendation, any application for a certificate of appealability under 28 U.S.C. § 2253(c) is **DENIED**. Any appeal by Darrisaw from this decision would be frivolous. A separate judgment shall be entered.

Dated: 8/30/06

/s/ R. Allan Edgar
R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE